

DEPARTMENT OF STATE REVENUE

01-20191416R.MOD

**Memorandum of Decision: 01-20191416R
Individual Income Tax
For the Tax Year 2018**

NOTICE: IC § 4-22-7-7 permits the publication of this document in the Indiana register. The publication of this document provides the general public with information about the Indiana Department of Revenue's official position concerning a specific set of facts and issues. The "Holding" section of this document is provided for the convenience of the reader and is not part of the analysis contained in this Memorandum of Decision.

HOLDING

Individuals provided sufficient documentation to confirm carried-forward partnership losses that result in a tax refund.

ISSUE

I. Individual Income Tax - Burden of Proof.

Authority: IC § 6-3-1-3.5; IC § 6-3-2-2; *Dept. of State Revenue v. Caterpillar, Inc.*, 15 N.E.3d 579 (Ind. 2014); *Wendt LLP v. Indiana Dep't of State Revenue*, 977 N.E.2d 480 (Ind. Tax Ct. 2012); *Scopelite v. Indiana Dep't of Local Gov't Fin.*, 939 N.E.2d 1138 (Ind. Tax Ct. 2010); IRC § 62; IRC § 172.

Taxpayers protest the Department's denial of refund resulting from losses carried forward from previous years.

STATEMENT OF FACTS

Taxpayers are Indiana residents who timely requested a refund of their 2018 Indiana income taxes. These refund requests were based on losses from multiple different partnerships which were carried forward from previous years. The Indiana Department of Revenue ("Department") found insufficient documentation to support these claimed losses and denied the refund. Taxpayers protested the denial, and an administrative hearing was held. This decision results. Other facts will be provided as necessary.

I. Individual Income Tax - Burden of Proof.

DISCUSSION

Taxpayers request a refund of individual income tax based on losses from multiple partnerships carried forward into the current tax year. The Department did not have sufficient documentation to confirm the amount of those losses and denied the refund claim.

As a threshold issue, "when [courts] examine a statute that an agency is 'charged with enforcing . . . [courts] defer to the agency's reasonable interpretation of [the] statute even over an equally reasonable interpretation by another party.'" *Dept. of State Revenue v. Caterpillar, Inc.*, 15 N.E.3d 579, 583 (Ind. 2014). Thus, all interpretations of Indiana tax law contained within this decision are entitled to deference. A taxpayer is required to provide documentation explaining and supporting his or her challenge that the Department's position is wrong. Poorly developed and non-cogent arguments are subject to waiver. *Wendt LLP v. Indiana Dep't of State Revenue*, 977 N.E.2d 480, 485 n.9 (Ind. Tax Ct. 2012); *Scopelite v. Indiana Dep't of Local Gov't Fin.*, 939 N.E.2d 1138, 1145 (Ind. Tax Ct. 2010).

Indiana taxes individuals on the adjusted gross income, which is defined "as [it is] defined in Section 62 of the Internal Revenue Code" with Indiana-specific modifications. IC § 6-3-1-3.5(a). One of these modifications includes a deduction of Net Operating Losses as defined in Section 172 of the Internal Revenue Code. IC § 6-3-1-3.5(a)(16). Deductions resulting from Net Operating Losses can be carried forward for not more than 20 years. IC § 6-3-2-2.5(f)

Taxpayers in this case provided K-1 schedules for each of their partnerships showing losses carried forward to 2018. The Department requested the full partnership returns for each of these entities and tax years but did not receive them and therefore denied the refund request. During the administrative hearing, Taxpayers provided all of the requested returns in full. These returns were sufficient documentation to demonstrate that Taxpayers were

entitled to carry forward their partnership losses, and therefore receive the requested refund.

FINDING

Taxpayers' refund request is granted.

August 30, 2021

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